

3/15/2019 4:11 PM
19CV12564

1

2

3

4

5

6

7

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR MULTNOMAH COUNTY

8

9

10

ROBERT FISHER

11

Plaintiff

12

vs

13

**HOMETOWN ADVANTAGE CO.
dba PORTLAND WALKING TOURS
and DAVID SCHARGEL**

14

Defendants

15

16

17

18

19

20

21

Case No.

COMPLAINT

Negligence
Assault and Battery

Not Subject to Mandatory Arbitration
Amount in Controversy: \$750,000
Filing Fee Authority: ORS 21.160(1)(c)

22

1.

23

FACTUAL ALLEGATIONS

24

On February 13, 2019 in defendants' offices at 701 SW 6th Avenue in Portland, Oregon at around 4:50pm, Mr. Fisher was tackled, struck, bitten, assaulted and beaten by Portland Walking Tours CEO David Schargel while Mr. Fisher and Mr. Schargel were on the job working at Portland Walking Tours.

25

26

27

28

COMPLAINT – Page 1 of 4

1
2 **2.**

3 **CAUSES OF ACTION**

4 **Claim One – Negligence against Portland Walking Tours**

5 Mr. Fisher is a citizen of Oregon. Mr. Schargel is a citizen of Oregon.
6 Hometown Advantage Co. (Portland Walking Tours) employed and was responsible
7 for its CEO Mr. Schargel when he assaulted and beat Mr. Fisher during the course
8 and scope of his employment at Portland Walking Tours. At all times Portland
9 Walking Tours maintained regular and sustained business in Multnomah County,
10 Oregon.

11 **3.**

12 Portland Walking Tours had a duty to maintain its work environment in a
13 safe and suitable condition for its employees. Portland Walking Tours knew and
14 should have known Mr. Fisher would sustain injuries if it hired an abusive CEO and
15 failed to properly supervise him, and failed to properly train him.

16 **4.**

17 Mr. Fisher's injuries were due in whole or in part to the acts and omissions of
18 Portland Walking Tours, which was negligent in one or more respects:

- 19
- 20 a. In failing to exercise reasonable care over its work environment
 - 21 b. In failing to properly screen its CEO
 - 22 c. In failing to properly supervise its CEO
 - 23 d. In failing to adopt policies necessary to protect Mr. Fisher's safety

24
25
26
27
28 **COMPLAINT – Page 2 of 4**

1
2 **5.**

3 As a direct result of Portland Walking Tours's negligent acts and omissions as
4 alleged in this complaint, Mr. Fisher experienced injuries and harm, all of which
5 were reasonably foreseeable, including pain, discomfort and distress. Mr. Fisher
6 requests fair compensation for his harm in an amount to be determined by the jury
7 to be reasonable, but not to exceed \$750,000. Mr. Fisher also requests an order
8 declaring that Portland Walking Tours's behavior as alleged in this complaint was
9 negligent in one or more regards, costs and disbursements, and maximum pre and
10 post judgment interest.

11
12 **6.**

13
14 **Claim Two – Assault and Battery against Mr. Schargel**

15
16 Mr. Schargel attempted to and did cause harmful, offensive physical contact
17 with Mr. Fisher, causing Mr. Fisher pain, discomfort and distress. Mr. Fisher
18 requests fair compensation for his harm in an amount to be determined by the jury
19 to be reasonable, but not to exceed \$750,000. Mr. Fisher also requests an order
20 declaring that Mr. Schargel's behavior as alleged in this complaint constituted
21 assault and battery, costs and disbursements, and maximum pre and post judgment
22 interest.
23
24
25
26
27
28

COMPLAINT – Page 3 of 4

1
2 **7.**
3

4 **PRAYER FOR RELIEF**
5

6 Mr. Fisher respectfully requests relief as sought in paragraphs 5 and 6, and
7 any other relief the Court may deem appropriate. Mr. Fisher reserves the right to
8 amend this complaint to adjust the request for compensation as well as to add or
9 remove defendants and claims, and to add a claim for punitive damages, as new
10 information is learned in discovery. This aggression will not stand.
11

12 **8.**
13

14 **REQUEST FOR JURY TRIAL**
15

16 Mr. Fisher respectfully requests a trial by a jury.
17

18 March 15, 2019
19

20 **RESPECTFULLY FILED,**
21

22 /s/ Michael Fuller
23 **Michael Fuller, OSB No. 09357**
24 Lead Trial Attorney for Mr. Fisher
25 OlsenDaines
26 US Bancorp Tower
27 111 SW 5th Ave., Suite 3150
28 Portland, Oregon 97204
 michael@underdoglawyer.com
 Direct 503-222-2000

26 **Kelly Jones, OSB No. 074217**
27 Of Attorneys for Mr. Fisher
28 The Law Office of Kelly Jones
 kellydonovanjones@gmail.com

COMPLAINT – Page 4 of 4